

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298

**FILED**

8-12-16

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August 12, 2016

Agenda ID #15097
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 13-12-014:

This is the proposed decision of Administrative Law Judge Robert M. Mason. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 15, 2016, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ KAREN V. CLOPTON by S.K.Karen V. Clopton, Chief
Administrative Law Judge

KVC:jt2

Attachment

Decision **PROPOSED DECISION OF ALJ MASON** (Mailed 8/12/16)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Ridepal, Inc., a Delaware Corporation, for authority to operate as a passenger stage corporation and arrange transportation through a cloud-based delivery platform between the Counties of San Francisco, Contra Costa, Alameda, San Mateo, Los Angeles, and Santa Clara in the State of California, and the Cities of San Francisco, Oakland, Fremont, Newark, Hayward, Sunnyvale, Mountain View, Palo Alto, Menlo Park, Walnut Creek, Danville, Pleasanton, San Ramon, San Leandro, Campbell, San Jose, Saratoga, Cupertino, Walnut Creek and Glendale, as well as other future counties and cities in the State of California, and to qualify for exemptions thereunder as to schedules, points of service, maps, equipment, and fares (or in the alternative a Zone of Rate Freedom).

Application 13-12-014
(Filed December 23, 2013)

DECISION DISMISSING APPLICATION FOR FAILURE TO PROSECUTE**Summary**

This decision dismisses Ridepal, Inc.'s (Ridepal) application for authority to operate as a passenger stage corporation (PSC), and to qualify for exemptions thereunder as to schedules, points of service, maps, equipment, and fares, for failure to prosecute this proceeding. Ridepal's counsel has informed the

Commission that Ridepal is no longer in operation and that its assets were assigned to a liquidator. As no person has stepped forward to pursue this application either on behalf of, or as Ridepal's successor in interest, the Commission dismisses this application for failure to prosecute.

The Commission also instructs the Safety and Enforcement Division (SED) to investigate whether any person is operating as a PSC in place of Ridepal, and ensure that this person has the requisite authority from the Commission to operate as a PSC. If it does not, the Commission instructs SED to take all appropriate enforcement actions to stop these illegal operations and to ensure there is compliance with the requirements to operate as a PSC.

This proceeding is closed.

1. Background

Previously, the assigned Administrative Law Judge (ALJ) Robert M. Mason III prepared a decision, mailed to the parties on October 19, 2015, that granted Ridepal authority to operate as a passenger stage corporation (PSC) subject to two conditions: : i) Ridepal was required to ensure that the PSCs holding charter party carrier certificates, as well as the charter party carriers, that it subcontracts with are in full compliance with Rules 3.3(a)(4)-(8) of the California Public Utilities Commission's Rules of Practice and Procedure, the Pull Notice Program, the Alcohol and Drug Testing Program, the mandatory controlled substance and alcohol testing certification training program of the drivers, and the safety requirements of the California Highway Patrol and the Motor Carrier Safety Sections of Title 13 of the California code of Regulations; and ii) Ridepal was to pay a fine in the amount of \$267,500.00 for operating as a PSC in violation of Public Utilities Code Section 1031(a), since Ridepal did not

receive a certificate of public convenience and necessity from the Commission before it began its PSC operations.

Prior to this decision being voted on by the Commission, on October 22, 2015, Ron Chauvel, counsel for Ridepal, e-mailed the service list and advised that he had “learned that Ridepal ran out of funding and shut down their service. They are no longer in business and have filed an assignment for the benefit of creditors – see attached.” In light of this development, the proposed decision was withdrawn from the Commission’s voting meeting.

On November 10, 2015, ALJ Mason issued an e-mail Ruling ordering the parties to file and serve their responses to the following questions: i) what is Ridepal’s current corporate status; ii) is Ridepal still operating in California; iii) what business is Ridepal currently providing in California; and iv) is Ridepal bankrupt or in some form of liquidation proceeding?

The Safety and Enforcement Division (SED) responded to the ALJ’s Ruling on November 20, 2015. While it acknowledged that Ridepal’s “corporate status remains unclear,” SED asserted the following, based on its investigation:

i) Ridepal remains active as it is still listed as active with the California Secretary of State; ii) iCommute Inc., a Delaware corporation, and Bauer’s Intelligent Transportation purchased Ridepal’s software, website, and other assets which includes Ridepal’s pending Application with the commission; iii) iCommute and Bauer continue to provide transportation services under the name, “Ridepal”; iv) Ridepal is currently undergoing a liquidation proceeding that has not concluded; and v) SED will continue to conduct further investigations to ensure that all Commission rules and laws are being followed.

On December 4, 2015, Mr. Chauvel served his verified response wherein he declared that Ridepal ceased all operations prior to November 1, 2015, and

has ceased to exist as a going concern and currently provides no transportation or other services in California or anywhere else. He went on to say that Ridepal executed a General Assignment for the Benefit of Creditors in favor of Greenough Consulting Group on July 7, 2015, and that the assets of Ridepal were sold on or about September 2, 2015, to a third party. Finally, Mr. Chauvel declared that a liquidator intended to dissolve Ridepal at its earliest convenience, and that his firm will file a Motion to Withdraw as counsel for Ridepal.

On December 4, 2015, Mr. Chauvel requested that the Commission grant his firm's motion to withdraw as counsel for Ridepal since Ridepal is allegedly no longer in existence and ceased its operations on June 26, 2015.

2. Discussion

From what we can glean from the foregoing representations, the entity named Ridepal that filed the instant application is no longer in operation, that either iCommute, Bauer, or both may be carrying on some form of PSC operations in place of Ridepal, and that iCommute, Bauer, or both may be using Ridepal's name following an assignment and sale of Ridepal's assets.

We also know that neither iCommute nor Bauer have sought to amend Ridepal's application for authority to operate as a PSC in place of or as the successor to Ridepal.

This application should not be left open indefinitely. Ridepal has been given a full opportunity to pursue this matter and has failed to do so. Nor have either of Ridepal's purported successors sought to amend this application to seek authority to operate as a PSC in place of Ridepal. Therefore, the application should be dismissed for failure to prosecute.

But this Commission is concerned about the possibility that an entity may be operating as a PSC in place of Ridepal without having first obtained the

requisite authority from this Commission. Therefore, the Commission also instructs SED to investigate whether any person is operating as a PSC in place of Ridepal, and ensure that this person has the requisite authority from the Commission to operate as a PSC. If it does not, the Commission instructs SED to take all appropriate enforcement actions to stop these illegal operations and to ensure there is compliance with the requirements to operate as a PSC.

3. Categorization and Need for Hearing

In Resolution ALJ 176-3329 dated January 16, 2014, the Commission preliminarily categorized this application as Ratesetting, and preliminarily determined that hearings were not necessary. Because Ridepal failed to prosecute its application, it is not necessary to alter the preliminary determinations.

4. Comments on Proposed Decision

The proposed decision of ALJ Mason in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

5. Assignment of Proceeding

Liane M. Randolph is the assigned Commissioner and Robert M. Mason III is the assigned ALJ in this proceeding.

Findings of Fact

1. Counsel for Ridepal has advised this Commission of the following:
 - a. Ridepal ceased all operations prior to November 1, 2015, and has ceased to exist as a going concern and currently provides no transportation or other services in California or anywhere else.

- b. Ridepal executed a General Assignment for the Benefit of Creditors in favor of Greenough Consulting Group on July 7, 2015, and that the assets of Ridepal were sold on or about September 2, 2015, to a third party.
 - c. A liquidator intended to dissolve Ridepal at its earliest convenience, and that his firm will file a Motion to Withdraw as counsel for Ridepal.
- 2. Counsel for SED has advised this Commission of the following:
 - a. Ridepal remains active as it is still listed as active with the California Secretary of State.
 - b. iCommute Inc., a Delaware corporation, and Bauer's Intelligent Transportation purchased Ridepal's software, website, and other assets which includes Ridepal's pending Application with the commission.
 - c. iCommute and Bauer continue to provide transportation services under the name, "Ridepal."
 - d. Ridepal is currently undergoing a liquidation proceeding that has not concluded.
- 3. Neither iCommute nor Bauer have appeared before the Commission claiming to be the successor to Ridepal's transportation operations.
- 4. Applicant has failed to prosecute the application.
- 5. SED should continue its investigation into iCommute and Bauer.

Conclusion of Law

1. The application should be dismissed with prejudice.

O R D E R

IT IS ORDERED that:

1. Application 13-12-014 is dismissed with prejudice for failure to prosecute.
2. Safety and Enforcement Division (SED) shall continue to investigate whether iCommute or Bauer is operating as a Passenger Stage Corporation (PSC) in place of Ridepal, Inc., and ensure that this person has the requisite authority from the Commission to operate as a PSC. If it does not, the Commission instructs SED to take all appropriate enforcement actions to stop these illegal operations and to ensure there is compliance with the requirements to operate as a PSC.
3. The motion by Chauvel & Glatt, LLP, to withdraw as counsel of record for Ridepal, Inc. is granted.
4. Application 13-12-014 is closed.

This order is effective today.

Dated _____, at San Francisco, California.